

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
April 26, 2010

**D056018     In re R.T, a Juvenile**

The judgment terminating parental rights is reversed. The case is remanded to the juvenile court with directions to order the Agency to (1) conduct a further ICWA inquiry; (2) provide ICWA notice to any Iroquois Tribes, the Cherokee Tribes and any other tribes the inquiry identifies; and (3) file all required documentation with the juvenile court. If, after proper notice, a tribe claims that R.T. is an Indian child, the juvenile court shall proceed in conformity with ICWA. If, on the other hand, no tribe claims that R. T. is an Indian child, the judgment terminating parental rights shall be reinstated. O'Rourke, J.; We Concur: Benke, Acting P.J., McIntyre, J.

**D057161     People v. Rodriguez**

The San Diego Superior Court order filed on March 10, 2010, denying Arturo Rodriguez's post-judgment motion for a hearing to challenge a restitution fine imposed at sentencing on August 14, 2009, is not an appealable order. The appeal filed on April 14, 2010, is dismissed.

**D056813     Lau v. Giurbino et al.**

The court has received and considered appellant's letter regarding the appealability of the challenged minute order dismissing appellant's case without prejudice for failing to appear at a case management conference. The matter having been considered by Presiding Justice McConnell and Associate Justices Nares and McIntyre, the appeal is dismissed on the ground that the appeal is from a nonappealable order. (Code. Civ. Proc., § 581d; *In re Marriage of Macfarlane & Lang* (1992) 8 Cal.App.4th 247, 253, fn. 4 [an unsigned minute order granting a motion to dismiss for failure to prosecute is not an appealable order].)

**D056008     Surecraft Supply, Inc. v. Spiegelman**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)

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- D055931     Shanley v. Shanley**  
The order is reversed. Irion, J.; We Concur: Benke, Acting P.J., Haller, J.
- D054692     People v. Attard**  
The judgment is affirmed.  
Haller, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.
- D055199     McGuigan v. City of San Diego**  
The opinion filed April 6, 2010 is modified. The petition for rehearing is denied.  
There is no change in judgment.
- D055025     Guffey v. Xtra Storage Limited Partnership**  
The judgment is affirmed. Respondents are awarded their appeal costs.  
McConnell, P.J.; We Concur: Huffman, J., Irion, J.
- D052523     Davis v. Wright**  
The judgment is affirmed.  
O'Rourke, J.; We Concur: Nares, Acting P.J., McIntyre, J.
- D054770     People v. Dudley**  
The judgment is affirmed.  
Haller, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.
- D054989     Sixuvus, Ltd. v. Willis**  
The order is affirmed. Sixuvus is entitled to costs on appeal.  
McDonald, J.; We Concur: Haller, Acting P.J., McIntyre, J.
- D055248     People v. Lopez**  
The judgment is reversed and remanded for resentencing.  
McDonald, J.; We Concur: Haller, Acting P.J., Aaron, J.
- D054356     Kaye v. Murray**  
Affirmed. Costs on appeal to Respondent.  
Huffman, J.; We Concur: Benke, Acting P.J., Nares, J.
- D054685     Plaza Home Mortgage, Inc. v. North American Title Company, Inc.**  
The judgment is reversed. On remand, the trier of fact shall determine consistent with this opinion whether North American breached the closing instructions contract and if so, whether that breach proximately caused Plaza's damages.  
Plaza is awarded its costs on appeal.  
Benke, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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April 27, 2010 (Continued)

- D057112     Rosado v. The Superior Court of San Diego County/People**  
Let a peremptory writ issue directing the superior court to vacate the February 26 and March 22, 2010, orders, and make the juvenile court records available for George R.'s attorney for inspection and copying. This opinion will be final immediately as to this court. (Rule 8.490(b)(3).)  
McDonald, J.; We Concur: Nares, Acting P.J., McIntyre, J.
- D056651     People v. Watson et al.**  
Upon filing an abandonment of appeal, personally signed by defendant Harold Parker, the appeal is dismissed and the remittitur is ordered to issue immediately as to Parker only.
- D055539     In re Amber M. et al., Juveniles**  
The June 9, 2009 jurisdiction/disposition order is reversed, and the matter is remanded for further proceedings consistent with this opinion.  
Nares, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.
- D055050     In re Spencer A., a Juvenile**  
The judgment is affirmed. Nares, Acting P.J.; We Concur: Haller, J., McIntyre, J.
- D056997     In re Sills on Habeas Corpus**  
The petition is denied.
- D056984     In re Smith on Habeas Corpus**  
The petition is denied.
- D057140     Wolf v. Superior Court of San Diego County/Borden et al.**  
The petition is denied as there is an adequate remedy by way of appeal.
- D057164     In re McCoy on Habeas Corpus**  
The petition is denied.
- D057044     In re Nunez on Habeas Corpus**  
The petition is denied.
- D057196     Ohme v. Superior Court of San Diego County/People**  
The petition is denied.
- D057045     In re McIntosh on Habeas Corpus**  
The petition is denied.

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- D056982     In re Gregory on Habeas Corpus**  
The petition is denied.
- D055617     People v. Houseknecht**  
The judgment is affirmed. Aaron, J.; We Concur: Benke, Acting P.J., Haller, J.
- D054074     People v. Jacobson**  
The judgment is affirmed. McDonald, J.; We Concur: Haller, Acting P.J., Aaron, J.
- D056453     In re Andrew F., a Juvenile**  
The appeal is dismissed.  
Aaron, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.
- D054609     Tate v. Wilburn**  
Wilburn's appeal is dismissed. The constructive petition for writ of mandate is denied. This court's December 8 order staying execution of the writ of execution is vacated. This court's December 24 order granting Wilburn's petition for writ of supersedeas is vacated. Wilburn is to bear costs. CERTIFIED FOR PARTIAL PUBLICATION. Aaron, J.; We Concur: Benke, Acting P.J., Huffman, J.
- D056365     In re P.A., a Juvenile**  
The appeal is dismissed. McConnell, P.J.; We Concur: Benke, J., O'Rourke, J.
- D057046     In re Williams on Habeas Corpus**  
The petition is denied.
- D056455     In re Korey P., a Juvenile**  
The appeal is dismissed. O'Rourke, J.; We Concur: McConnell, P.J., McIntyre, J.
- D056859     In re Busch on Habeas Corpus**  
The petition is denied.
- D056900     In re Hamilton on Habeas Corpus**  
The petition is denied.

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**D055419     Howard et al. v. County of San Diego**

The judgment is reversed, and the matter is remanded with directions that the court grant plaintiffs' leave to amend their complaint. Costs on appeal to plaintiffs.  
Nares, Acting P.J.; We Concur: Haller, J., McIntyre, J.

**D054071     People v. Armenta**

The judgment is modified as follows: the special circumstances found true as to the murder and conspiracy to commit murder convictions, and the sentences of life without the possibility of parole imposed for the convictions (and stayed pursuant to section 654 with respect to the conspiracy conviction) are vacated. The trial court is directed to send an amended abstract of judgment to the Department of Corrections and Rehabilitation reflecting a sentence of imprisonment for 25 years to life on count 1, and a sentence of imprisonment for 25 years to life, stayed pursuant to section 654, on count 2. In all other respects the judgment is affirmed.  
Aaron, J.; We Concur: Huffman, Acting P.J., McDonald, J.

**D056120     In re D. W. on Habeas Corpus**

The petition is denied.

**D055622     In re Jackson W. et al., Juveniles**

The order is affirmed. McConnell, P.J.; We Concur: McDonald, J., McIntyre, J.

**D049251     Lexin et al. v. The Superior Court of San Diego County/People**

On remand from the California Supreme Court, we remand this matter to the San Diego County Superior Court for further proceedings consistent with the opinion of the California Supreme Court in Lexin v. The Superior Court of San Diego County (2010) 47 Cal.4th 1050. Nares, Acting P.J.; We Concur: McDonald, J., Irion, J.

**D055266     CMRE Financial Services, Inc. v. Parton**

The judgment is reversed and remanded with instructions that CMRE's complaint be dismissed and the order sustaining CMRE's demurrer to Pamela's cross-complaint be vacated. Pamela to recover her costs of appeal.  
Benke, Acting P.J.; We Concur: Huffman, J., Irion, J.

**D055462     People v. Garris**

The judgment is affirmed. Benke, Acting P.J.; We Concur: Huffman, J., Irion, J.

**D055591     People v. Breitbard**

The revocation of probation and the sentence in case No. SCS 204315 are reversed. In all other respects the judgment is affirmed.  
McIntyre, J.; We Concur: Benke, Acting P.J., Irion, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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- D057081     In re Ayala on Habeas Corpus**  
The petition is denied.
- D056975     In re Hearn on Habeas Corpus**  
The petition is denied.
- D057225     In re Rios on Habeas Corpus**  
The petition is denied.
- D055052     People v. Shaw**  
**D056310     In re Shaw on Habeas Corpus**  
The pending petition for writ of habeas corpus, In re Kenneth N. Shaw, D056310, is consolidated with the pending appeal, People v. Shaw, D055052, for disposition.
- D055052     People v. Shaw**  
**D056310     In re Shaw on Habeas Corpus**  
(Consolidated) The judgment is affirmed. The petition is denied without prejudice for determination before the Honorable Robert F. O'Neill in the first instance. Irion, J.; We Concur: Benke, Acting P.J., Haller, J.
- D055803     People v. Hassler**  
The appeal is dismissed. McConnell, P.J.; We Concur: Haller, J., McIntyre, J.
- D056372     In re Francisco C. et al., Juveniles**  
The appeal is dismissed. McIntyre, J.; We Concur: McDonald, Acting P.J., Irion, J.
- D056942     In re S.A. et al., Juveniles**  
No timely petition for writ relief has been filed for father C.D. The notice of intent as to father C.D. is deemed to be abandoned. The case as to C.D. is dismissed.
- D054950     Riazati v. Oliver et al.**  
The order of the trial court is affirmed.  
Aaron, J.; We Concur: McConnell, P.J., Benke, J.
- D055690     People v. Dowell**  
The judgment is affirmed. Haller, Acting P.J.; We Concur: O'Rourke, J., Irion, J.
- D054772     People v. Keller**  
The judgment is affirmed.  
O'Rourke, J.; We Concur: Haller, Acting P.J., McDonald, J.

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- D055092     People v. Holiday**  
The judgment is affirmed. Aaron, J.; We Concur: McConnell, P.J., Irion, J.
- D057207     Fraser v. Superior Court of San Diego County/People**  
The petition is denied.
- D057167     In re Burton on Habeas Corpus**  
The petition is denied.
- D057240     In re Porter on Habeas Corpus**  
The petition is denied without prejudice to refiling in Imperial County Superior Court with an adequate documentary record once Porter has exhausted his administrative remedies. The address of the Imperial County Superior Court is 939 West Main Street, El Centro, California 92243.
- D057129     In re Muhammad on Habeas Corpus**  
The petition is denied.
- D057039     In re Maxwell on Habeas Corpus**  
The petition is denied.
- D057218     In re Clark on Habeas Corpus**  
The petition is denied.
- D057166     Farmers Group, Inc. v. Superior Court of San Diego County/Getoff**  
The petition is denied.
- D056976     In re Woodall on Habeas Corpus**  
The petition is denied.
- D056973     In re Alarid on Habeas Corpus**  
The petition is denied.
- D054896     People v. Norman**  
The judgment is affirmed. Haller, J.; We Concur: Nares, Acting P.J., Irion, J.